IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PTITION NO. 8204 OF 2004

Chandrakant Shankar Mali ... Petitioner

Vs.

Abdul Fajaruddin Shaikh
and another ... Respondents

Mr. S.S. Patwardhan for Petitioner.

Mr. R.V. More for Respondent Nos. 1 and 2.

CORAM : F.I. REBELLO,J.
DATED : JANUARY 11, 2005

P.C.

. On behalf of the Petitioner, learned counsel points out that the Respondents had earlier come with a case of easement and thereafter in another suit proceeded on the basis of ownership. Considering that it was not open for the Respondent to get any relief as sought for. This aspect has not been considered by the appellate authority as it has totally disregarded the contention so advanced.

. It is not necessary to go into the controversy as this issue will be an issue in the suit. All that can be said is that the trial court to dispose of the suit without being influenced by any observations made by the appellate court or in its earlier order. Considering the facts and circumstances, the trial court is directed to

dispose of the suit on or before 31.12.2005. With above observations, petition stands disposed of.

All interim orders stand vacated.

s

(F.I. REBELLO,J.)